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Recommended Citation

58 N.Y.L. Sch. L. Rev. 1

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ROSS SANDLER

Politics, Process, and Mayoral Power:
The Story of Ed Koch and the
Appointment of Frank Macchiarola as
Chancellor of the New York City Schools

58 N.Y.L. SCH. L. REV. 19 (2013–2014)

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POLITICS, PROCESS, AND MAYORAL POWER

At today's symposium,¹ we honor Frank Macchiarola and former New York City Mayor Edward I. Koch, both of whom recently passed away.² In a law school setting where the topic of the symposium is government, the lives of Koch and Macchiarola remind us that good government requires clear-eyed political skills as well as idealism. Koch, in particular, possessed those skills and used them effectively in his service to New York City. In the seventeen books Koch wrote about government,³ he told many revealing, and often humorous, stories about his rise in politics and his efforts as Mayor to reform and manage a city government that had just missed falling into bankruptcy.⁴ Among the stories he told in *Mayor*, his first book, was the story of how he secured the appointment of Macchiarola as Chancellor of the New York City school system.⁵ It took all of Koch's political and personal skills to put Macchiarola into that important position.

Koch was inaugurated Mayor on January 1, 1978. At that time, the seven appointed members of the New York City Board of Education independently selected the Chancellor, the executive who actually ran the New York City school system. Mayor Koch needed to have influence over the appointment of the Chancellor. The school budget dominated the City budget and had to be consistent with the rest of

1. This is the fourth symposium that the Center for New York City Law has co-sponsored with the *New York Law School Law Review*. Each of the first three symposia each resulted in an issue of the *Law Review* that remains relevant and useful to this day. The first symposium in 1995 assessed the city's efforts to combat police corruption as revealed in the 1994 report by the Mollen Commission, a special investigative commission appointed by Mayor David N. Dinkins. See MILTON MOLLEN ET AL., COMMISSION REPORT: COMMISSION TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE ANTI-CORRUPTION PROCEDURES OF THE POLICE DEPARTMENT (1994); Annette Gordon-Reed, *Watching the Protectors: Independent Oversight of Municipal Law Enforcement Agencies*, 40 N.Y.L. SCH. L. REV. 87 (1995).

The next symposium was held in 1998 and celebrated the 100th anniversary of the consolidation of the City of New York. See Symposium, *One-Hundredth Anniversary of the Charter of the City of New York: Past, Present, and Future, 1898–1998*, 42 N.Y.L. SCH. L. REV. 324 (1998). Out of that symposium came a comprehensive 450-page article by Frederick A.O. Schwarz, Jr. and Eric Lane that detailed the 1989 Charter Revision Commission's recommendations and examined how and why the Commission made the choices it did. See Frederick A.O. Schwarz, Jr. & Eric Lane, *The Policy and Politics of Charter Making: The Story of New York City's 1989 Charter*, 42 N.Y.L. SCH. L. REV. 723 (1998). The Schwarz and Lane article remains the single most important source for understanding the current structure of New York City government.

The third symposium honored the New York City Office of Corporation Counsel and the New York City Law Department. New York University Professor William E. Nelson's book, *Fighting for the City: A History of the New York City Corporation Counsel*, inspired the conference. Corporation Counsel Michael Cardozo, who commissioned the history, led the symposium. Symposium, *The History of the New York City Law Department*, 53 N.Y.L. SCH. L. REV. 541 (2008).

2. See Joseph Berger, *Frank Macchiarola, Called the 'Standard' for a New York Schools Chief, Dies at 71*, N.Y. TIMES, Dec. 18, 2012, <http://www.nytimes.com/2012/12/19/nyregion/frank-macchiarola-highly-regarded-new-york-schools-chancellor-dies-at-71.html>; Robert D. McFadden, *Edward I. Koch, a Mayor as Brash, Shrewd and Colorful as the City He Led, Dies at 88*, N.Y. TIMES, Feb. 1, 2013, <http://www.nytimes.com/2013/02/02/nyregion/edward-i-koch-ex-mayor-of-new-york-dies.html>.

3. See McFadden, *supra* note 2.

4. See EDWARD I. KOCH, MAYOR (2011).

5. See *id.* at 63–66.

the City's budget. Mayor Koch had been elected to end the fiscal crisis and, without control of the school budget, he would lack control over a major expense.

Initially, Koch asked the New York State Legislature to place the school system directly under his authority, but the State Legislature, bending to lobbying by the United Federation of Teachers (UFT) under its president Albert Shanker, refused.⁶ After that failure, Koch turned his attention to the position of Chancellor. If he could not directly control the schools with new state legislation, then he would attempt to do so through a working relationship with a Chancellor of his choice.

Koch, however, controlled none of the seven members of the New York City Board of Education, who, by majority vote, would appoint the new Chancellor. Under the law at the time, the Mayor appointed two members of the Board of Education, while each of the five Borough Presidents appointed one member. The members of the Board of Education had fixed terms of four years. And when Koch took office in January 1978, all seven members of the Board were holdovers; Koch could not count on the vote of a single member.

Particularly galling was former Mayor Abraham Beame's midnight appointment of Louis Rivera to the Board in December 1977, just before Beame left office and Koch became Mayor. According to Koch, he pleaded with departing Mayor Beame not to make the appointment, but Beame made the appointment anyway as a favor to Albert Shanker.⁷ The UFT, under Shanker's leadership, had supported Beame in the 1977 primary election against Koch, and Beame returned the favor by nominating Louis Rivera to the New York City Board of Education as a mayoral appointee. Rivera was a person who would respond to the union and its president—not to the incoming Mayor.

Mayor Koch's candidate for Chancellor was Frank Macchiarola. Macchiarola was politically shrewd, was loyal to Koch, had the required education background, was from Brooklyn, and would be the kind of reform-oriented school Chancellor that Koch wanted. Mayor Koch first asked Louis Rivera, Beame's midnight appointee to the Board, to support Macchiarola, but Rivera refused. Amelia Ashe, the other mayoral appointee, also appointed by Mayor Beame, refused as well. She, too, was beholden to Albert Shanker, who turned out to have his own candidate for Chancellor.

As Koch retold the story in his book, Shanker visited him at City Hall and told him, "Your candidate, Macchiarola, can't win, I have five votes of the seven" Board members.⁸ Koch was outraged and challenged; he was not going to let the head of the union pick the Chancellor. Koch wrote in *Mayor* that Shanker's assertion that he would pick the Chancellor was "an outrage to the people whose kids are trying to get an education."⁹ But outrage was not enough. Koch needed four votes to defeat

6. Mayor Michael Bloomberg finally eliminated the Board of Education and won control of the schools in 2002. See Peter Meyer, *New York City's Education Battles*, EDUC. NEXT, Spring 2008, at 12–13, available at http://educationnext.org/files/ednext_20082_10.pdf.

7. See KOCH, *supra* note 4, at 64.

8. *Id.*

9. *Id.* at 65.

Shanker's pick. The Mayor began by lobbying two members appointed by Borough Presidents: the Board member from Brooklyn and the Board member from Queens. He called their political mentors, Brooklyn Democratic boss Meade Esposito and Queens Democratic boss and Borough President Donald Manes, respectively. This was in 1978, nearly a decade before both leaders were implicated in serious municipal corruption scandals, and Esposito and Manes had both supported Koch in the 1977 election. With these political leaders on board, the Brooklyn and Queens members of the Board of Education quickly agreed to support Macchiarola.

Mayor Koch now had the Brooklyn and Queens votes, two of the four votes he needed to secure a majority. For a third vote, Koch went back to Louis Rivera, Beame's midnight appointee. But Rivera again refused to help and said that he would vote for Shanker's candidate.

The Manhattan member of the Board of Education, Isaiah Robinson, had been appointed by Percy Sutton, the former Manhattan Borough President who had also lost to Koch in the 1977 Democratic mayoral primary. Koch considered contacting Robinson, but was advised that Robinson had an independent mind, would keep his word, and, most importantly, had independently decided to vote for Macchiarola. Koch had never met Robinson. Koch's Albany lobbyist warned him that it would be a mistake even to talk to Robinson concerning Robinson's vote for Chancellor. Koch agreed and followed the advice; he never said a word to Robinson. Instead, Koch counted on Robinson's reputation that once he had made up his mind, he would not change it. So Koch had two sure votes and a likely third vote. One more vote and he would have a majority.

Now Koch returned to the second mayoral appointee, Amelia Ashe, who had also been appointed by Beame and had already refused to vote for Macchiarola. Koch pleaded, he cajoled, and he talked to her many times. Ashe, in a peculiar and unexpected statement, said that she had decided that she did not want to vote for *either* Macchiarola *or* Shanker's candidate. She had a third candidate in mind. Koch thought that was ridiculous. He said to Ashe, "But that person is not going to be the new Chancellor . . . And I need your vote. Don't waste it like that. I need you."¹⁰ Ashe hesitated. Koch called her the next day and told her that, "You must do this for me. You're a Mayoral appointee and that is why you're there. I'm asking you to vote in a way that will be helpful to me."¹¹ Finally she agreed.

When the vote was taken, Macchiarola won four votes to three. Isaiah Robinson kept his word and voted for Macchiarola. And that is how Frank Macchiarola became Chancellor of the New York City schools. Koch savored his victory. In *Mayor*, he wrote, "That was the first time Al Shanker was ever beaten, and I did it."¹² Pure Koch. Then he added, of course, that he thought Macchiarola did a good job.

I love that story because it is all about politics and the political process. It takes skill to make the political wheels turn. It is about understanding people and knowing

10. *Id.* at 66.

11. *Id.*

12. *Id.*

what to do and what not to do. Koch got the four votes he needed. Two votes he got by invoking political muscle provided by the bosses of Brooklyn and Queens. He got a third vote by remaining silent and not upsetting the decision of an independent-minded Board member. He won the necessary fourth vote by personal pressure, persuasion, and the blunt use of mayoral authority. It was not inevitable that Macchiarola would become Chancellor. It was through a political process managed by a professional politician who understood how to use his mayoral power.